

ORIGINAL

FORMAL COMPLAINT FOR
FORMAL COMPLAINT

0000148348

COMPLAINT Carefree 34 Inc./Office on Easy Street Inc., dba Venues Café		COMPLAINT NUMBER
ADDRESS 34 Easy Street, Carefree, Arizona 85377-2000		PHONE(HOME) 480-488-5555
NAME OF RESPONSIBLE PARTY Al Swanson and/or Catherine Marr		PHONE(WORK) 480-560-7700
NAME OF UTILITY Liberty Utilities aka Black Mountain Sewer Co	ACCOUNT NUMBER 1000847-143484	SW-02361A-13-0359

GROUND(S) FOR COMPLAINT: (COMPLETE STATEMENT OF THE GROUNDS FOR COMPLAINT, INDICATING DATE(S) OF COMMISSION/OMISSION OR ACTS OR THINGS COMPLAINED OF.) (USE ADDITIONAL PAGE IF NECESSARY.)

Rate discrimination/unreasonable difference in rate between classes of service: In April, 2013, Liberty Utilities increased Ratepayers sewer rates in an unreasonable sum of \$8,651.40 per year. This increase is unaffordable and unreasonable. Based upon extensive research of ACC decisions, Ratepayer ardently believes the ACC never intended to violate the Arizona Constitution or any Arizona Revised Statute by imposing an unreasonable and unaffordable rate which would cause any Ratepayer to pay for processing outflow of nearly one million gallons more than water purchased annually. Utility management requested, and the ACC approved a tariff based upon an obsolete ADEQ Engineering Bulletin 12, which seems contrary to Arizona law:

1. The Arizona Constitution, Article 15, Section 12, mandates in part "charges made for service rendered, or to be rendered, by public service corporations with this state shall be just and reasonable, and no discrimination in charges, service, or facilities shall be made between persons or places for rendering a like and contemporaneous service".
2. The Arizona State Legislature addresses discrimination between persons, localities or classes of services: "A.R.S §40-334. B. No public service corporation shall establish or maintain any unreasonable difference as to rates, charges service, facilities or in any other respect, either between localities or between classes of service."

Arizona Corporation Commission

DOCKETED

OCT 22 2013

ARIZONA CORPORATION COMMISSION
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1. Stipulation by Liberty Utilities/BMSC, with approval by The Arizona Corporate Commission to permit charging Ratepayer a fee equating to the average Water Purchases, in direct correlation with ratios charged other classifications of Service. For example: Residential Ratepayers are charged a flat rate of \$60.00 per month, with average monthly water purchases of 14,051 gallons per month, Restaurants using twice the average monthly consumption (during peak season) should pay not more than twice the average residential rate monthly, Ceteris Paribus.
2. Stipulation the Utility shall not request unreasonable charges on Business Ratepayers in future rate increases.

SIGNATURE OF COMPLAINANT OR ATTORNEY

Catherine Marr *for Al Swanson*

ARIZONA CORPORATION COMMISSION FORMAL COMPLAINT FORM

GROUND'S FOR COMPLAINT: (CONTINUED)

Liberty Utilities/BMSC has proven, beyond a reasonable doubt, to be inconsistent in its billing practices, evidenced by the fact this Ratepayer's business has been an operating restaurant for at least 6 years; the Utility now claims Ratepayer was "undercharged". Ratepayer has added exactly zero additional chairs since the business was purchased in August of 2010. Further comparisons from other business Owners, and Landlords, reflect a perspective that rate charges are arbitrary, for instance: A local multi-tenant center, housing 11 separate businesses (including a hair salon) and a restaurant with more chairs than this Ratepayer, claims having been paying about \$500 per month; recently raised to \$900 monthly. A nearby restaurant with 370 chairs recently closed; problems with the Sewer played an irrevocable role in the closing. Another Property Owner (16 year personal friend) claims a building he owns is being classified as an Office Building—although a restaurant has occupied the space for at least four years. One local Restaurant Owner refused to discuss Sewer Rates, not wanting to become a "target". Requests made to Utility Employees for a listing of the chairs of each restaurant being serviced by BMSC/Liberty Utility, to document arbitrary billing practices, have been stonewalled and refused by BMSC employees under the auspicious of customer "confidentiality".

BMSC charges Residential Classification Ratepayers approximately \$60.00 month and households serviced by Carefree Water Company purchase an average of 168,612 gallons of water per year according to the Company (www.CarefreeWaterCo.com) website. Ratepayer alleges it is unreasonable and impossible for BMSC to process more outflow than the amount of water purchased.

Further:

The cost estimated for Sewer charges, for restaurants, based upon the published rates for surrounding municipalities, with equal water consumption of 29,253.25 gallons per month are as follows:

- Carefree: \$808.27 (based upon the number of chairs counted by Liberty Utilities)
- Cave Creek: \$102.75 (\$45.00, plus \$3.00 per 1,000 gallons over 10,000 gallons)
- Scottsdale: \$134.55 (\$4.60 per 1000 gallons)
- Phoenix: \$189.11 (4.8352 x 39.11 per hundred cubic feet actual usage)

Ratepayer contacted the ACC and attended mediation and participated in at least three (3) meetings with the Utility and requested an interim Agreement, based upon number of meals served to comply with the existing Tariff. While the Utility employees initially agreed the rate was unreasonable and proposed basing the rate on meal count, they were apparently advised by their attorneys to not explore this option. ACC staff claims there is "nothing" they can do to resolve this problem.

It is apparent the Restaurants in Carefree are being targeted and unreasonably charged, in comparison to the other restaurants in the area. The Carefree Water Company has agreed to provide water usage to Liberty Utilities/BMSC upon the request of the consumer.

ATTACHMENTS:

1. Liberty Utilities correspondence dated January 8, 2013, courtesy letter of rate increase
 2. Carefree Water Company report of monthly water usage (2 pages) for 2010, 2011, 2012 and 2013
 3. Cave Creek published Sewer Rates
 4. City of Scottsdale Sewer Rates Schedule
 5. City of Phoenix Sewer Service Charges
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Liberty Utilities

Phone: 480-488-4152
Fax 623-935-1020

12725 W Indian School Road
Suite D101
Avondale, AZ 85392
www.libertyutilities.com

January 8, 2013

Carefree 34, Inc.
PO BOX 2000
Carefree AZ 85377

Account: 1000847-143484

This is a courtesy letter to inform you of a change to your account.

Adhering to the rules and regulations set and approved by the ACC (Arizona Corporate Commission) and in accordance to the Engineering Bulletin No.12; the monthly sewer service charges for a "restaurant" are calculated on a *per gallon / per day flow rate*.

We routinely audit the establishments within our service area and during this past December it was verified that your restaurant had 108 chairs available for service.

We have revised the number of chairs on your account from 12 to 108; this does means that your billing will also be changing accordingly.

Your current monthly flat fee for service was \$87.06. Your new monthly flat rate for wastewater service fees is as follows:

Your restaurant has 108 seats available for service; the *per gallon / per day flow rate* is 30 days (x) the commercial rate of \$0.248734 (x) 108 seats = \$805.90 a month

If you have any questions we can be reached at 480-488-4152 Monday through Friday 7:30am to 4:30pm.

Best Regards

Liberty Utilities
Customer Service

Liberty Utilities
12725 W. Indian School Rd, Suite D101
Avondale, AZ 85392

Ph: 480-488-4152
Fax: 623-935-1020

2010 and 2011 Monthly Water Usage at Venues Café
Service Address: 34 Easy Street
Carefree Water Company Account No. 3754

Month	2010 Water Use (Gallons)
January	-
February	-
March	-
April	-
May	-
June	-
July	-
August	310
September	4,690
October	27,090
November	51,740
December	37,770
Total	121,600

Month	2011 Water Use (Gallons)
January	30,750
February	33,030
March	35,000
April	33,020
May	31,760
June	25,640
July	30,540
August	31,140
September	27,190
October	24,990
November	32,430
December	29,570
Total	365,060

2012 and 2013 Monthly Water Usage at Venues Café
Service Address: 34 Easy Street
Carefree Water Company Account No. 3754

Month	2012 Water Use (Gallons)
January	32,700
February	40,930
March	28,520
April	27,010
May	34,480
June	25,624
July	34,020
August	34,704
September	46,514
October	28,785
November	33,886
December	31,497
Total	398,670

Month	2013 Water Use (Gallons)
January	33,977
February	45,452
March	29,126
April	28,300
May	21,392
June	19,657
July	25,446
August	-
September	-
October	-
November	-
December	-
Total	203,350

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Water Fees and Charges

Backflow Questions and Answers

Licensed & Certified Installers/Testers

Water Quality Reports

Wastewater



FIND US ON

Water Fees and Charges

Monthly Base, Usage and Sewer Rates Effective April, 13, 2009

BASE RATES

METER SIZE	FEE
5/8" x 3/4"	\$50.00
5/8" x 3/4" boosted	\$58.00
1" residential	\$50.00
1" residential boosted	\$59.00
1" commercial	\$78.00
1" commercial boosted	\$87.00
1-1/2" residential & commercial	\$171.00
1-1/2" boosted	\$180.00
2" residential & commercial	\$370.00
2" boosted	\$379.00
3"	\$495.00
4"	\$495.00
Standpipe	\$50.00
Commercial standpipe and hauled	\$50.00

USAGE RATES

RESIDENTIAL ALL SIZES, COMMERCIAL 1" & 1-1/2" METERS	RATE PER 1,000 GALLONS
1st Tier (0-10,000 gal.)	\$3.25
2nd Tier (10,001-20,000 gal.)	\$4.50
3rd Tier (20,001 - 30,000 gal.)	\$5.75
4th Tier (30,001-50,000 gal.)	\$7.50
5th Tier (over 50,000 gal.)	\$9.25
2" METERS AND LARGER	RATE PER 1,000 GALLONS
1st Tier (0-20,000 gal.)	\$3.25
2nd Tier (20,001-40,000 gal.)	\$4.50
3rd Tier (40,001-80,000 gal.)	\$5.75
4th Tier (80,001-160,000 gal.)	\$7.50
5th Tier (over 160,000 gal.)	\$9.25

SEWER RATES

MONTHLY CHARGES	RATE
Residential	\$45.00
Commercial	\$45.00
Commercial (in excess of 10,000 gallons)	\$3.00 per 1,000 gallons

FEES OR CHARGES EFFECTIVE APRIL 13, 2009

FEE TYPE	RATE
Establishment of Service (New Account)	\$20.00
Establishment of Service (After Hours)	No after hours
Re-establishment Fee (after voluntary interruption of service)	# of months off x min. monthly rate
Re-connection of service (After disconnection due to delinquency)	\$25.00
Charge for moving meter at customer's request	cost



Sewer Rates Schedule

Effective July 1, 2013

User Category	O&M User Charge Per 1,000 Gallons	Capital & Other Charges Per 1,000 Gallons	Total Sewer Service Charge Per 1,000 Gallons ⁽¹⁾	Monthly Minimum Charge Before Taxes ⁽²⁾
Single-family Residential	1.11	1.65	2.76	\$14.87
Multi-family Residential	1.11	1.65	2.76	\$9.27
Commercial without dining	1.05	1.65	2.70	\$14.87
Commercial with dining	1.42	1.65	3.07	\$14.87
Hotels, motels without dining	1.16	1.63	2.80	\$14.87
Hotels, motels with dining	1.62	1.66	3.28	\$14.87
Carwashes	0.95	1.65	2.60	\$14.87
Commercial Laundry	1.76	1.63	3.39	\$14.87
Mortuaries	2.23	1.63	3.86	\$14.87
Laundromats	1.09	1.63	2.72	\$14.87
Metal Platers	1.11	1.65	2.76	\$14.87
Restaurants ; bakeries	2.97	1.63	4.60	\$14.87
Service station auto repair	1.16	1.63	2.80	\$14.87
Medical Institutes	1.29	1.65	2.93	\$14.87
Schools	1.09	1.63	2.72	\$14.87
Non compliant	See below	See below	See below	Various

Notes:

⁽¹⁾ The monthly sewer service charge is calculated by multiplying 90% of the customer's average water consumption for the prior December, January and February by the rates shown above. In addition, a customer service charge of \$1.35 per account is added. Applicable city tax is added for customers located within the City of Scottsdale.

⁽²⁾ The monthly minimum charge includes the customer service charge. The Multi-family Residential minimum charge is per dwelling unit. Applicable city tax is added for customers located within the City of Scottsdale.

Non compliant- Once a customer is designated as non compliant, the then current O & M and Other Charges will be adjusted by one hundred and fifty percent (150%) for a minimum period of six months.

Source: City of Scottsdale Revised City Code, Section 49-141.

Financial Services Department – Utility Billing Office

7447 E Indian School Road, Suite 110, Scottsdale, AZ 85251 • Phone: 480-312-2461 • Fax: 480-312-4803

CITY OF PHOENIX
SEWER SERVICE CHARGES PER HUNDRED CUBIC FEET
EFFECTIVE JULY 1, 2013

06/25/13

TYPE USER	SEWER FLOW PCT.	WITHOUT DINING						WITH DINING						ADJUSTED AVERAGE SEWER FLOW (CCF'S)	100% SEWER FLOW (CCF'S)	AVERAGE SEWER CHARGES						ENVIRONMENTAL SEWER CHARGES	
		MONTH MIN	FIXED CHRG	USER CHRG	OTHER CHRG	TOTAL CHRG	MONTHLY MINIMUM	FIXED CHRG	USER CHRG	OTHER CHRG	TOTAL CHRG	Without Environmental Charge				Total			User	Other			
												INSIDE CITY	WITHOUT DINING			WITH DINING	INSIDE CITY	WITHOUT DINING			WITH DINING	OUTSIDE CITY	Other
01	1 Family Residence	84%	\$ 4.50	\$ 1.00	\$ 0.7441	\$ 1.4713	\$ 2.2154	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8.35	9.94	\$ 19.50	\$ -	\$ 29.25	\$ -	\$ -	\$ 4.50	\$ 6.75	
02	1 Commercial Unit	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	45.91	51.01	90.66	131.03	135.99	196.55	24.72	37.08		
03	Governments	90%	4.50	1.00	0.6599	1.2213	1.8812	2.2551	24.03	20.53	0.7595	1.4956	2.2551	165.29	183.66	311.94	393.28	467.91	589.92	89.01	133.52		
04	Schools	90%	4.50	1.00	0.6599	1.2213	1.8812	2.2551	24.03	20.53	0.7595	1.4956	2.2551	63.68	70.76	120.79	164.13	181.19	246.20	34.29	51.44		
05	Institutions	90%	4.50	1.00	0.6599	1.2213	1.8812	2.2551	24.03	20.53	0.7595	1.4956	2.2551	110.44	122.71	208.76	269.58	313.14	404.37	59.47	89.21		
06	Churches	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	29.84	33.16	59.27	92.35	88.91	138.53	16.07	24.11		
10	2 Family Residence	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	11.45	12.72	26.37	-	39.56	-	6.17	9.26		
11	1 Family, 1 Commercial	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	11.22	12.47	22.91	47.54	34.37	71.31	6.04	9.06		
12	2 Commercial Units	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	24.75	27.50	49.33	80.10	74.00	120.15	13.33	20.00		
20	2-1 Family Residences	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	13.39	14.88	30.66	-	45.99	-	7.21	10.82		
21	3 Family Residence	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	16.29	18.10	37.09	-	55.64	-	8.77	13.16		
22	2 Family, 1 Commercial	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	14.29	15.88	28.91	54.92	43.37	82.38	7.70	11.55		
23	1 Family, 2 Commercial	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	8.55	9.50	17.70	41.11	26.55	61.67	4.60	6.90		
24	3 Commercial Units	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	35.06	38.96	69.47	104.92	104.21	157.38	18.88	28.32		
25	Offices - 4 Stores	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	64.05	71.17	126.08	174.69	189.12	262.04	34.49	51.74		
26	Apartments	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	116.43	129.37	258.94	-	388.41	-	62.70	94.05		
30	3-1 Family Residences	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	21.51	23.90	48.65	-	72.98	-	11.58	17.37		
31	Laundries/Commercial	90%	24.03	20.53	1.2702	2.6576	3.9278	-	-	-	-	-	-	223.07	245.63	888.85	-	1,333.28	-	119.05	178.58		
32	Car Washes	90%	24.03	20.53	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	163.67	181.86	340.16	-	510.24	-	88.14	132.21		
33	Offices - Banks	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	68.94	76.60	135.63	186.46	203.45	279.69	37.12	55.68		
36	Platers	90%	4.50	1.00	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
37	Restaurants & Bakeries	90%	24.03	20.53	1.4525	3.1137	4.5662	4.8352	24.03	20.53	1.5289	3.3063	4.8352	89.24	99.16	428.02	452.02	642.03	678.03	48.06	72.09		
38	Service Stations, Auto f	90%	24.03	20.53	0.6716	1.2813	1.9529	2.4069	-	-	-	-	-	24.45	27.17	68.28	-	102.42	-	13.17	19.76		
39	All Others	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	145.00	145.00	284.17	369.53	426.26	554.30	78.08	117.12		
40	Trailer Courts	90%	4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	242.22	269.13	537.61	-	806.42	-	130.44	195.66		
45	Hotels & Motels	90%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	24.03	20.53	0.8026	1.6043	2.4069	273.21	303.57	534.55	678.12	801.83	1,017.18	147.12	220.68		
46	Laundries, Self-Service	90%	24.03	20.53	0.6716	1.2813	1.9529	2.4069	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
47	Mortuaries	90%	4.50	1.00	1.1767	2.2542	3.4309	-	-	-	-	-	-	27.70	30.78	96.04	-	144.06	-	14.92	22.38		
50	City Offices	90%	4.50	1.00	0.6599	1.2213	1.8812	2.2551	24.03	20.53	0.7595	1.4956	2.2551	137.64	152.93	259.93	330.92	389.90	496.38	74.12	111.18		
60	Federal Buildings	90%	4.50	1.00	0.6599	1.2213	1.8812	2.2551	24.03	20.53	0.7595	1.4956	2.2551	51.01	56.68	96.96	135.56	145.44	203.34	27.47	41.21		
77	Ice Producers	50%	4.50	1.00	0.6716	1.2813	1.9529	2.4069	-	-	-	-	-	159.00	9.94	311.51	-	467.27	-	85.62	128.43		
83	Sewer & Sanitation Only		4.50	1.00	0.7441	1.4713	2.2154	-	-	-	-	-	-	8.35	9.94	19.50	-	29.25	-	4.50	6.75		

Notes: (1) This schedule reflects the annual Sewer Flow % recalculation using the CURRENT YEAR'S January, February, March consumption.
(2) In addition, a sewer environmental mandate charge per hundred cubic foot is applied to each customer's billed sewer flow and is indicated separately on the customer's bill.